

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1936/P2dn
EVM:sac:ph

June 17, 2013

ATTN: Matt Egerer

Please review the attached draft carefully to ensure that it is consistent with your intent. The following are several issues you may wish to consider in your review of this draft.

1. Please review my formulation of s. 346.445 (1) to ensure it meets your intent. I did not use the provided language for a few reasons. First, the provided language appears to go significantly beyond what I understand to be your intent. The reference to “railroad property” in the provided material would likely encompass more than railroad tracks and would, therefore, constitute more of a trespass-style prohibition than a traffic violation. Second, I am not certain that all railroad tracks can properly be described as “railroad property.” The provision I drafted, therefore, is specifically directed at, and limited to, railroad tracks. Third, the definition of “railroad crossing” in s. 340.01 (47) is “the intersection of any highway or private road or driveway at grade with tracks upon which railroad track equipment or railroad trains operate.” Unused rails would, therefore, have no railroad crossings. This draft would not restrict crossing of unused railroad tracks. Please let me know if you want any changes to this provision.

2. Also in regard to s. 346.445 (1), this bill would prohibit a pedestrian from crossing in-use railroad tracks at any location other than a railroad crossing. As I noted earlier, “railroad crossing” has a specific definition in ch. 346. Are there crossing areas, e.g. private sidewalks that intersect with tracks, that do not fit the definition of “railroad crossing” that you would nonetheless like to exempt from the prohibition in s. 346.445 (1)?

3. You requested tripled penalties for 2nd and subsequent violations of railroad crossing violations. This draft would apply these penalties to a 2nd or subsequent conviction within a year. Please let me know if you do not want this limited to within a year or if you have a different time frame in mind.

4. Your instructions do not specifically reference liability under s. 346.452 for observed violations of ss. 346.44 and 346.45. This bill triples the amounts for 2nd and subsequent convictions within a year under s. 346.452. Please let me know if this is not what you intend.

5. This draft delays the effective date for the entire draft for 3 months. Do you instead want the delayed effective date to apply only to the pedestrian provisions?

6. Please review s. 346.49 (2v), as created in this draft, to ensure the provision meets your intent. Do you want this provision to be mandatory? Do you want the provision to apply only to non-motorcycle and non-EPAMD violations of s. 346.44?

Please let me know if you would like any changes made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible “/1” draft.

Eric V. Mueller
Legislative Attorney
Phone: (608) 261-7032
E-mail: eric.mueller@legis.wisconsin.gov